

NOTICE OF PROPOSED CHANGES IN REGULATIONS OF THE  
CALIFORNIA DEPARTMENT OF SOCIAL SERVICES (CDSS)

ITEM # 2: Assembly Bill (AB) 1166 (Chapter 312, Statutes of 2003), Adult Residential Facility (ARF), Hospice Terminally Ill

The CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held April 9, 2014, as follows:

Office Building # 8  
744 P St. Room 103  
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The purpose of the hearing is to receive public testimony, not to engage in debate or discussion. The Department will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on April 9, 2014.

Following the public hearing CDSS may thereafter adopt the proposals substantially as described below or may modify the proposals if the modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at <http://www.dss.cahwnet.gov/ord>. Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below:

CONTACT: Office of Regulations Development  
California Department of Social Services  
744 P Street, MS 8-4-192  
Sacramento, California 95814

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## CHAPTER

Title 22, Chapter 85000

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

AB 1961 amended Health and Safety (H&S) Code section 1569.73 to allow for the acceptance of terminally ill persons already receiving hospice care into a Residential Care Facility for the Elderly (RCFE). AB 1166 affected both ARFs and RCFEs respectively by amending H&S Code sections 1507.3 and 1569.74 to accept a terminally ill person already receiving hospice care into an ARF and to allow licensees in both facility types to contact the hospice agency in lieu of calling 9-1-1 during an emergency situation for hospice terminally ill client/residents under certain conditions. The regulations also incorporate prohibited health conditions into the hospice care plan and hospice waiver. Similarly, the ARF regulations incorporate restricted and prohibited health conditions into the hospice care plan and the hospice waiver.

The proposed regulations amended several ARF sections in Title 22, such as the definition of and services allowed by the Facility Hospice Care Waiver, Hospice Care and the honoring of advance directives and/or requests regarding resuscitative measures.

The benefits of the regulatory action to the health and welfare of the terminally ill residents is to acknowledge the relationship between the individual and the hospice agency when the individual is actively dying and has elected to not be resuscitated as well as providing for a continuation of hospice care for individuals who elect to enter a residential care facility.

The CDSS considered any other possible related regulations, and we find that these are the only regulations dealing in this subject area (Hospice Terminally Ill, Adult Residential Facility), and therefore, CDSS finds that these proposed regulations are compatible and consistent with the intent of the Legislature in adopting AB 1166, as well as with existing state regulations.

The regulations further meet all the requirements established in statute as they pertain to ARFs to implement the provisions of AB 1166.

### COST ESTIMATE

1. Costs or Savings to State Agencies: These regulation changes do not result in local assistance costs to the state.
2. Costs to Local Agencies or School Districts Which Must Be Reimbursed in Accordance With Government Code Sections 17500 - 17630: These regulation changes do not result in costs to local agencies or school districts.
3. Nondiscretionary Costs or Savings to Local Agencies: None.

4. Federal Funding to State Agencies: These regulation changes do not result in local assistance costs to the federal government.

#### LOCAL MANDATE STATEMENT

These regulations do not impose a mandate on local agencies or school districts. There are no state-mandated local costs in this order that require reimbursement under the laws of California.

#### STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

The CDSS does not collect data on the number of individual receiving hospice care in licensed facilities or the number of calls made to emergency response services. The CDSS initially determines that the proposed regulations will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

#### STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The CDSS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### SMALL BUSINESS IMPACT STATEMENT

The CDSS initially determines that there is no impact on small businesses as a result of filing these regulations because these regulations are only applicable to state and county agencies.

#### STATEMENT OF RESULTS OF ECONOMIC IMPACT ASSESSMENT

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California. The benefits of the regulatory action will allow services be given to terminally ill clients with restricted and/or prohibited health conditions through a hospice waiver.

#### STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

## STATEMENT OF ALTERNATIVES CONSIDERED

The CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective as and less burdensome to affected private persons than the proposed action or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

## AUTHORITY AND REFERENCE CITATIONS

Sections 1530 and 1562.3(i) of the H&S Code grants CDSS the authority to develop the regulations and Section 1507.3 is being referenced to make the regulations more specific.

## CDSS REPRESENTATIVE REGARDING THE RULEMAKING PROCESS OF THE PROPOSED REGULATION

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